

Senate File 518 - Introduced

SENATE FILE 518

BY SENG

A BILL FOR

1 An Act creating a program for state procurement from work
2 centers for individuals with disabilities.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 8A.531 Disability work center
2 procurement program.

3 1. *Definitions.* For the purposes of this section, unless
4 the context otherwise requires:

5 a. "Agency" means a department, board, bureau, or commission
6 of this state.

7 b. "Direct labor" means all labor or work involved in
8 producing or supplying materials, supplies, or equipment
9 or performing contractual services including preparation,
10 processing, and packing, but excluding supervision,
11 administration, inspection, and shipping.

12 c. "Disabled individual" means an individual who has
13 a physical, mental, or emotional disability which is a
14 substantial handicap to employment and prevents the individual
15 from engaging in normal competitive employment.

16 d. "Work center" means a nonprofit corporation organized
17 under chapter 504 or a political subdivision, which is licensed
18 under section 84A.12, and which is operated for the purpose
19 of carrying out a program of rehabilitation for disabled
20 individuals and for providing the individuals with remunerative
21 employment or other occupational rehabilitating activity of
22 an educational or therapeutic nature, and which is engaged in
23 the production of materials, supplies, or equipment or the
24 performance of contractual services in connection with which
25 not less than seventy-five percent of the total hours of direct
26 labor are performed by disabled individuals.

27 2. *Duties of the department.* The department shall do all
28 of the following:

29 a. Aid in the identification of materials, supplies,
30 equipment, and contractual services which agencies can procure
31 from work centers.

32 b. Establish eligibility criteria for work centers
33 participating in the program established under this section.

34 c. Annually establish and review fair market prices for
35 materials, supplies, equipment, and contractual services which

1 can be purchased from work centers.

2 *d.* By October 1 each year, prepare and submit to the
3 director an annual report concerning the activities of the
4 program, including all of the following:

5 (1) A summary of materials, supplies, equipment, and
6 contractual services purchased by agencies from work centers.

7 (2) The name of each work center participating in the
8 program established under this section.

9 (3) The impact of the program established under this
10 section upon production, work stabilization, and program
11 development of, and the number of disabled individuals served
12 by, participating work centers.

13 *e.* Annually conduct a review of the prices paid by agencies
14 for the materials, supplies, equipment, and contractual
15 services provided by work centers and make any adjustments
16 necessary to establish a fair market price for all such
17 materials, supplies, equipment, and contractual services.

18 *f.* Adopt procedures regarding specifications, time of
19 delivery, and designation of materials, supplies, equipment,
20 and contractual services to be supplied by work centers. The
21 department shall maintain a list of each material, supply,
22 piece of equipment, or contractual service to be supplied
23 by work centers, and shall assign a number to each item
24 on the list. Specifications of the department shall be
25 consistent with specifications prescribed by agencies for which
26 procurements are made.

27 (1) The department may change specifications contained
28 in the list maintained under this paragraph "*f*". Each list
29 shall contain a basic specification and the date of the latest
30 revision.

31 (2) If an agency makes a substantial change in a
32 specification on the list maintained under this paragraph
33 "*f*", the department shall assign a new item number. The
34 agency shall notify the department of the change prior to the
35 effective date of the change.

1 *g.* Review each order and contract for the impact that
2 the requirements of subsection 3 have on each supplier or
3 contractor, and assure that the requirements do not affect more
4 than fifteen percent of the supplier's or contractor's current
5 yearly sales or production.

6 *h.* Prescribe a surcharge to be paid by each ordering agency,
7 which shall be payable to the department within a time and in
8 accordance with a procedure specified by the department.

9 *i.* Adopt rules pursuant to chapter 17A to administer the
10 provisions of this section.

11 3. *Qualification of work centers.* To qualify for
12 participation under the program established under this section,
13 a work center must submit to the department a copy of its
14 license issued under section 84A.12 together with the following
15 documents, transmitted by a letter signed by an officer of the
16 work center:

17 *a.* In the case of a nonprofit corporation organized under
18 chapter 504, all of the following:

19 (1) A legible copy of the articles of incorporation of the
20 organization showing the date of filing with the secretary of
21 state.

22 (2) A copy of the bylaws of the organization certified by
23 an officer.

24 (3) A copy of a letter from the federal internal revenue
25 service indicating that the organization qualifies as a
26 tax-exempt organization.

27 *b.* In the case of a political subdivision, a copy of the
28 ordinance, resolution, or motion authorizing or directing the
29 establishment of the work center.

30 4. *Responsibilities of work centers.* Each work center
31 participating in the program established under this section
32 shall do all of the following:

33 *a.* Furnish materials, supplies, equipment, and services in
34 accordance with orders issued by agencies.

35 *b.* Make its records available for public inspection at any

1 reasonable time.

2 *c.* Maintain records of direct labor hours performed in the
3 work center by each worker.

4 *d.* Annually submit to the department a certification that
5 the work center is qualified to participate in the program
6 established under this section.

7 *e.* Comply with applicable occupational health and safety
8 standards prescribed by the United States secretary of
9 labor, the United States occupational health and safety
10 administration, or the department of workforce development.

11 *f.* Maintain an ongoing placement program for disabled
12 individuals that includes staff assigned to perform personal
13 evaluations and to maintain liaisons with appropriate community
14 service organizations.

15 *g.* Maintain a record for each disabled individual employed
16 by the work center which includes a written report prepared
17 by a licensed physician or psychiatrist, or a qualified
18 psychologist, reflecting the nature and extent of the
19 disability that causes the individual to qualify as disabled.

20 5. *Purchase of raw materials.* A work center shall seek
21 broad competition in the purchase of raw materials and
22 components used in the materials, supplies, equipment, or
23 services provided to agencies under this section. A work
24 center shall inform the department before entering into a
25 multiyear contract for raw materials and components.

26 6. *Violations.* An alleged violation of this section by
27 a work center shall be investigated by the department. The
28 department shall determine whether a violation has occurred.
29 If the department determines that a violation has occurred,
30 the department may terminate an assignment to the work center
31 or suspend an assignment until the department determines the
32 violation has been corrected.

33 7. *Procurement requirements and procedures.*

34 *a.* Except as provided this subsection and subsection 8, an
35 agency purchasing a material, supply, piece of equipment, or

1 services which is on the list maintained under subsection 2,
2 paragraph "f", shall purchase the material, supply, piece of
3 equipment, or service from a work center.

4 b. Purchase orders shall contain the following:

5 (1) The name, material, supply, or equipment number
6 assigned by the department, most recent specification,
7 quantity, unit price, and place and time of delivery.

8 (2) The type of work and location of service required, most
9 recent specification, work to be performed, estimated volume,
10 and time for completion.

11 c. An agency shall issue purchase orders with sufficient
12 time for the appropriate work center to produce the materials,
13 supplies, or equipment, or provide the services required.

14 d. If any commodity on the list maintained under subsection
15 2, paragraph "f", is also produced at an institution of the
16 state and the commodity conforms to the specifications on the
17 list, the ordering agency shall purchase the commodity from the
18 institution.

19 e. If a specific material, supply, or piece of equipment
20 on the list maintained under subsection 2, paragraph "f", also
21 appears in the price lists prepared pursuant to section 904.807
22 for products supplied by Iowa state industries, the ordering
23 agency shall notify and provide Iowa state industries with the
24 opportunity to fill the order prior to placing an order.

25 f. (1) Paragraph "a" does not apply to purchases of
26 printing or stationery.

27 (2) Paragraph "a" does not apply to procurements by
28 the department relating to information technology or
29 telecommunications.

30 8. *Exceptions.* The department shall do all of the
31 following:

32 a. Grant written authorization to an ordering agency to
33 procure materials, supplies, equipment, or services on the list
34 maintained under subsection 2, paragraph "f", from commercial
35 sources when all of the following conditions are met:

1 (1) The work center to which the order is assigned cannot
2 furnish a material, supply, piece of equipment, or service
3 within the period specified in the order.

4 (2) The material, supply, equipment, or service is
5 available from commercial sources in the same quantity and at
6 an earlier time than it is available from the work center to
7 which the order is assigned.

8 *b.* Issue an authorization to an ordering agency to procure
9 materials, supplies, equipment, or services from commercial
10 sources when the quantity involved is not sufficient for the
11 economical production or provision by the work center to which
12 the order is assigned.

13 *c.* Issue an authorization under paragraph "a" or "b"
14 promptly upon request by an ordering agency. The authorization
15 shall be in the form of a certificate which shall specify the
16 quantity and delivery period covered by the authorization.

17 9. *Prices.*

18 *a.* All prices included in the list maintained under
19 subsection 2, paragraph "f", shall be determined by the
20 department on the basis of fair market prices for materials,
21 supplies, equipment, or services similar to those supplied by
22 work centers.

23 *b.* Prices for materials, supplies, or equipment shall
24 include delivery and packaging, packing, and marketing costs.

25 *c.* Price changes for materials, supplies, or equipment shall
26 apply to all orders placed on or after the effective date of
27 the change.

28 *d.* Delivery of an order shall be deemed accomplished when a
29 shipment is received and accepted by the purchasing agency.

30 10. *Adjustment and cancellation of orders.* If a work center
31 fails to comply with the terms of an order from an agency,
32 the ordering agency shall make every effort to negotiate
33 adjustments before canceling the order.

34 11. *Quality control.*

35 *a.* Materials, supplies, and equipment furnished by work

1 centers under specifications issued by an agency shall
2 be manufactured by work centers in accordance with the
3 specifications.

4 *b.* Services provided by work centers under specifications
5 issued by an agency shall be performed by work centers in
6 accordance with the specifications. If no specifications
7 exist, the services shall be performed by work centers in
8 accordance with reasonable commercial standards of practice in
9 the applicable industry.

10 *c.* If the quality of a material, supply, piece of equipment,
11 or service received from a work center is not satisfactory to
12 the contracting agency, the agency shall advise the department
13 and, if the department determines that the quality of the
14 material, supply, equipment, or service is unsatisfactory, the
15 department shall suspend the eligibility of the work center
16 which provided the material, supply, or equipment, or which
17 performed the service to participate in the program established
18 under this section.

19 12. *Research and development periods.*

20 *a.* No more than once during a two-year period, a work center
21 may apply to the department for authorization to begin a period
22 of research and development to explore the capability of the
23 work center to provide a material, supply, piece of equipment,
24 or service to the state that the work center does not currently
25 provide. A period shall not last for more than ninety days.
26 The department shall not authorize a period for a work center
27 for a particular material, supply, piece of equipment, or
28 service if such a period has been authorized for another work
29 center for the same material, supply, piece of equipment, or
30 service, and the period has not yet elapsed. The department
31 may approve one additional ninety-day period for a work center
32 if the work center reports satisfactory progress for an initial
33 period.

34 *b.* At the time of authorization of an initial period for a
35 work center, the department shall provide the work center with

1 any available data on annual state purchases; the most recent
2 contract specifications, terms and conditions; prices; and,
3 when available, samples for the particular material, supply,
4 piece of equipment, or service which is to be the subject of
5 research and development for the period.

6 Sec. 2. NEW SECTION. **84A.12 Licenses for employment of**
7 **workers with disabilities by work centers.**

8 The department shall issue a license to a nonprofit
9 corporation organized under chapter 504 or to a political
10 subdivision to operate a work center for the employment of
11 workers with a disability who are unable to earn a wage that
12 is commensurate with their ability and productivity. The
13 department shall adopt rules pursuant to chapter 17A to
14 administer this section.

15 EXPLANATION

16 This bill provides for a program for state agencies to
17 procure products from work centers for disabled individuals.
18 Such products would consist of materials, supplies, equipment,
19 or contractual services. The bill requires a state agency
20 which is making a purchase of a product which is on the list of
21 products available pursuant to the bill to purchase the product
22 from a work center, with certain exceptions.

23 The bill provides that the program will be administered by
24 the department of administrative services. The bill provides
25 definitions for "disabled individual" and "work center". The
26 bill sets out duties of the department, including identifying
27 products which agencies can procure from work centers,
28 establishing eligibility criteria for participating work
29 centers, establishing fair market prices for products purchased
30 from work centers, reporting on the activities of the program,
31 adopting procedures for ordering products from work centers,
32 maintaining a list of products available through the program,
33 establishing a surcharge for agencies ordering products, and
34 adopting other rules as necessary pursuant to Code chapter 17A.

35 The bill specifies that a nonprofit corporation organized

1 under Code chapter 504 or a political subdivision may operate
2 work centers. The bill requires a nonprofit corporation or
3 political subdivision to submit verifying documentation to the
4 department to qualify as a work center, including a license to
5 operate issued by the department of workforce development.

6 The bill sets out responsibilities of work centers,
7 including furnishing products ordered by agencies, maintaining
8 records of hours worked, submitting annual certification
9 of qualification to participate in the program, compliance
10 with applicable health and safety standards, maintaining a
11 placement program for participants, and maintaining records
12 for participants, including a written report by a licensed
13 physician or psychiatrist, or a qualified psychologist.

14 The bill directs work centers to seek broad competition
15 in the purchase of raw materials and components used in the
16 products provided to agencies. The bill provides that a work
17 center must inform the department before entering into a
18 multiyear contract for raw materials and components.

19 The bill directs the department to investigate any alleged
20 violation of the provisions of the bill. The bill provides
21 that the department shall determine if a violation has
22 occurred, and may terminate an assignment to a work center
23 or suspend an assignment until the department determines the
24 violation has been corrected.

25 The bill provides that a state agency which is making
26 a purchase of a product which is on the list of products
27 available pursuant to the bill must purchase the product
28 from a work center. The bill provides exceptions from this
29 requirement, including purchases of printing or information
30 technology, purchases of products also produced by state
31 institutions, purchases of products also produced by the state
32 prison industries program, purchase orders that cannot be
33 satisfied in the necessary time frame, and purchase orders of a
34 quantity which a work center cannot economically produce.

35 The bill sets out requirements for the contents of purchase

1 orders. The bill requires an ordering agency to issue a
2 purchase order with sufficient time for the appropriate work
3 center to produce the products required.

4 The bill provides that prices for the products offered
5 through the program must be based on fair market prices and
6 will include delivery and packaging, packing, and marketing
7 costs. The bill specifies that delivery of an order is
8 accomplished when a shipment is received and accepted by the
9 purchasing agency. The bill provides that if a work center
10 fails to comply with the terms of an order from an agency, the
11 ordering agency must make every effort to negotiate adjustments
12 before canceling the order.

13 The bill provides that products furnished by work centers
14 must meet the specifications of the ordering agency. The
15 bill provides that if the quality of a product received from
16 a work center is not satisfactory to the contracting agency,
17 the agency must advise the department and, if the department
18 determines that the quality of the product is unsatisfactory,
19 the department must suspend the work center which provided the
20 product from the program.

21 The bill provides that no more than once during a two-year
22 period, a work center may apply to the department for
23 authorization to begin a period of research and development
24 to explore the capability of the work center to provide a
25 product to the state that the work center does not currently
26 provide. The bill provides that a period will not last
27 more than 90 days. The bill prohibits the department from
28 authorizing a period for a work center for a particular product
29 if such a period has been authorized for another work center
30 for the same product, and the period has not elapsed. The
31 bill provides that the department may approve one additional
32 90-day period for a work center if the work center reports
33 satisfactory progress for an initial period. The bill directs
34 the department, at the time of authorization of an initial
35 period, to provide the work center with any available data on

1 annual state purchases; most recent contract specifications,
2 terms and conditions; prices; and, when available, samples for
3 the particular product which is to be the subject of research
4 and development for the period.

5 The bill directs the department of workforce development to
6 adopt rules pursuant to Code chapter 17A for issuing a license
7 to a nonprofit corporation or political subdivision to operate
8 a work center for the employment of workers with a disability
9 who are unable to earn a wage that is commensurate with their
10 ability and productivity.

11 The bill may cause a political subdivision to offer for sale
12 to the public a service or product that competes with private
13 enterprise.